

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2018

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P.No.6750 of 2017
and Crl.M.P.Nos.4935 & 4936 of 2017

1.R.M.Govindan
2.G.Ramasamy
3.G.Meenakshiammal
4.R.M.Adaikkalammal

...Petitioners/Accused

Versus

1.J.Vedhasingh ...Respondents/Defacto/Complainant
2.The Inspector of Police,
City Crime Branch,
Coimbatore District,
Coimbatore. ...Respondents/Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to quash final report in C.C.No.33 of 2017 in F.I.R.No.100 of 2016, dated 30.12.2016 of 2nd respondent.

For Petitioners : Mr.B.Nedunchezhiyan

For R1 : Mr.S.Panneerselvam

For R2 : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

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O R D E R

This petition has been filed seeking to quash the proceedings in C.C.No.33 of 2017, pending on the file of the Judicial Magistrate Court No.III, Coimbatore.

2.The final report was filed by the respondent Police against these petitioners for an offence under Sections 120(b), 406, 420 and Section 34 of IPC.

3.The allegations that have been made in the final report is that the defacto-complainant was a Civil Engineer, who was working abroad and he wanted to make investment in certain property. The petitioners approached him and told him that they are in need of money for developing the land and the defacto-complainant can invest some amount towards the same and there was also an agreement between the parties in order to share the profit in the said property development. The 2nd respondent is said to have paid the money and the same was not repaid back. Therefore, on insistance made by the 2nd respondent, a cheque was issued by the petitioner and the same was dis-honoured on the ground that there was no sufficient funds.

4.It is seen from the records that on the very same cause of action, the defacto-complainant has filed a complaint under Section 138 of the Negotiable Instruments Act and the same is pending in S.T.C.No.792 of 2015 before the learned Judicial Magistrate No.III, Coimbatore. A reading of the complaint would show that the defacto-complainant had raised the very same ground in the private complaint also.

5.That apart, it is also seen that in the earlier complaint given by the defacto-complainant, the police filed a closure report and the defacto-complainant filed a protest petition and based on the order passed in protest petition, this final report came to be filed by the respondent Police.

6.The defacto-complainant is agitating the same issue in two forums. The allegations as found in the final report, will only constitute a Prima facie offence under Section 138 of the Negotiable Instruments Act. The defacto-complainant is already prosecuting the complaint before the concerned Court and the same is pending. The present final report on the same cause of action is not maintainable. The continuation of the proceedings before the Court below will result in abuse of process of Court.

7.In the result the proceedings in C.C.No.33 of 2017, on file of the Judicial Magistrate Court No.III, Coimbatore is hereby quashed and accordingly, this Criminal Original Petition is allowed. It is made clear that this order will have no bearing on the 1st respondent pursuing his remedy under Section 138 of the Negotiable Instruments Act in S.T.C.No.792 of 2015, on the file of the Judicial Magistrate Court No.III, Coimbatore

and the learned Magistrate shall consider the same independently on its own merits and in accordance with law. Consequently, connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate Court No.III,
Coimbatore.

2.The Inspector of Police,
City Crime Branch,
Coimbatore District,
Coimbatore.

3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.B.Nedunchezhiyan, Advocate, S.R.No.84617

Cr1.O.P.No.6750 of 2017

MR(CO)
GSP(10/01/2019)



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